

Effective 12/31/2015

Superseded 5/10/2016

59-2-919 Notice and public hearing requirements for certain tax increases -- Exceptions.

(1) As used in this section:

- (a) "Ad valorem tax revenue" means ad valorem property tax revenue not including revenue from new growth as defined in Section 59-2-924.
- (b) "Additional ad valorem tax revenue" means ad valorem property tax revenue generated by the portion of the tax rate that exceeds the taxing entity's certified tax rate.
- (c) "Calendar year taxing entity" means a taxing entity that operates under a fiscal year that begins on January 1 and ends on December 31.
- (d) "County executive calendar year taxing entity" means a calendar year taxing entity that operates under the county executive-council form of government described in Section 17-52-504.
- (e) "Current calendar year" means the calendar year immediately preceding the calendar year for which a calendar year taxing entity seeks to levy a tax rate that exceeds the calendar year taxing entity's certified tax rate.
- (f) "Fiscal year taxing entity" means a taxing entity that operates under a fiscal year that begins on July 1 and ends on June 30.

(2) A taxing entity may not levy a tax rate that exceeds the taxing entity's certified tax rate unless the taxing entity meets:

- (a) the requirements of this section that apply to the taxing entity; and
- (b) all other requirements as may be required by law.

(3)

(a) Subject to Subsection (3)(b) and except as provided in Subsection (5), a calendar year taxing entity may levy a tax rate that exceeds the calendar year taxing entity's certified tax rate if the calendar year taxing entity:

(i) 14 or more days before the date of the regular general election or municipal general election held in the current calendar year, states at a public meeting:

- (A) that the calendar year taxing entity intends to levy a tax rate that exceeds the calendar year taxing entity's certified tax rate;
- (B) the dollar amount of and purpose for additional ad valorem tax revenue that would be generated by the proposed increase in the certified tax rate; and
- (C) the approximate percentage increase in ad valorem tax revenue for the taxing entity based on the proposed increase described in Subsection (3)(a)(i)(B);

(ii) provides notice for the public meeting described in Subsection (3)(a)(i) in accordance with Title 52, Chapter 4, Open and Public Meetings Act, including providing a separate item on the meeting agenda that notifies the public that the calendar year taxing entity intends to make the statement described in Subsection (3)(a)(i);

(iii) meets the advertisement requirements of Subsections (6) and (7) before the calendar year taxing entity conducts the public hearing required by Subsection (3)(a)(v);

(iv) provides notice by mail:

- (A) seven or more days before the regular general election or municipal general election held in the current calendar year; and
- (B) as provided in Subsection (3)(c); and

(v) conducts a public hearing that is held:

- (A) in accordance with Subsections (8) and (9); and
- (B) in conjunction with the public hearing required by Section 17-36-13 or 17B-1-610.

(b)

- (i) For a county executive calendar year taxing entity, the statement described in Subsection (3) (a)(i) shall be made by the:
 - (A) county council;
 - (B) county executive; or
 - (C) both the county council and county executive.
- (ii) If the county council makes the statement described in Subsection (3)(a)(i) or the county council states a dollar amount of additional ad valorem tax revenue that is greater than the amount of additional ad valorem tax revenue previously stated by the county executive in accordance with Subsection (3)(a)(i), the county executive calendar year taxing entity shall:
 - (A) make the statement described in Subsection (3)(a)(i) 14 or more days before the county executive calendar year taxing entity conducts the public hearing under Subsection (3)(a)(v); and
 - (B) provide the notice required by Subsection (3)(a)(iv) 14 or more days before the county executive calendar year taxing entity conducts the public hearing required by Subsection (3)(a)(v).
- (c) The notice described in Subsection (3)(a)(iv):
 - (i) shall be mailed to each owner of property:
 - (A) within the calendar year taxing entity; and
 - (B) listed on the assessment roll;
 - (ii) shall be printed on a separate form that:
 - (A) is developed by the commission;
 - (B) states at the top of the form, in bold upper-case type no smaller than 18 point "NOTICE OF PROPOSED TAX INCREASE"; and
 - (C) may be mailed with the notice required by Section 59-2-1317;
 - (iii) shall contain for each property described in Subsection (3)(c)(i):
 - (A) the value of the property for the current calendar year;
 - (B) the tax on the property for the current calendar year; and
 - (C) subject to Subsection (3)(d), for the calendar year for which the calendar year taxing entity seeks to levy a tax rate that exceeds the calendar year taxing entity's certified tax rate, the estimated tax on the property;
 - (iv) shall contain the following statement: "[Insert name of taxing entity] is proposing a tax increase for [insert applicable calendar year]. This notice contains estimates of the tax on your property and the proposed tax increase on your property as a result of this tax increase. These estimates are calculated on the basis of [insert previous applicable calendar year] data. The actual tax on your property and proposed tax increase on your property may vary from this estimate.";
 - (v) shall state the date, time, and place of the public hearing described in Subsection (3)(a)(v); and
 - (vi) may contain other property tax information approved by the commission.
- (d) For purposes of Subsection (3)(c)(iii)(C), a calendar year taxing entity shall calculate the estimated tax on property on the basis of:
 - (i) data for the current calendar year; and
 - (ii) the amount of additional ad valorem tax revenue stated in accordance with this section.
- (4) Except as provided in Subsection (5), a fiscal year taxing entity may levy a tax rate that exceeds the fiscal year taxing entity's certified tax rate if the fiscal year taxing entity:
 - (a) provides notice by meeting the advertisement requirements of Subsections (6) and (7) before the fiscal year taxing entity conducts the public meeting at which the fiscal year taxing entity's annual budget is adopted; and

- (b) conducts a public hearing in accordance with Subsections (8) and (9) before the fiscal year taxing entity's annual budget is adopted.
- (5)
- (a) A taxing entity is not required to meet the notice or public hearing requirements of Subsection (3) or (4) if the taxing entity is expressly exempted by law from complying with the requirements of this section.
 - (b) A taxing entity is not required to meet the notice requirements of Subsection (3) or (4) if:
 - (i) Section 53A-17a-133 allows the taxing entity to levy a tax rate that exceeds that certified tax rate without having to comply with the notice provisions of this section; or
 - (ii) the taxing entity:
 - (A) budgeted less than \$20,000 in ad valorem tax revenues for the previous fiscal year; and
 - (B) sets a budget during the current fiscal year of less than \$20,000 of ad valorem tax revenues.
- (6)
- (a) Subject to Subsections (6)(d) and (7)(b), the advertisement described in this section shall be published:
 - (i) subject to Section 45-1-101, in a newspaper or combination of newspapers of general circulation in the taxing entity;
 - (ii) electronically in accordance with Section 45-1-101; and
 - (iii) on the Utah Public Notice Website created in Section 63F-1-701.
 - (b) The advertisement described in Subsection (6)(a)(i) shall:
 - (i) be no less than 1/4 page in size;
 - (ii) use type no smaller than 18 point; and
 - (iii) be surrounded by a 1/4-inch border.
 - (c) The advertisement described in Subsection (6)(a)(i) may not be placed in that portion of the newspaper where legal notices and classified advertisements appear.
 - (d) It is the intent of the Legislature that:
 - (i) whenever possible, the advertisement described in Subsection (6)(a)(i) appear in a newspaper that is published at least one day per week; and
 - (ii) the newspaper or combination of newspapers selected:
 - (A) be of general interest and readership in the taxing entity; and
 - (B) not be of limited subject matter.
 - (e)
 - (i) The advertisement described in Subsection (6)(a)(i) shall:
 - (A) except as provided in Subsection (6)(f), be run once each week for the two weeks before a taxing entity conducts a public hearing described under Subsection (3)(a)(v) or (4)(b); and
 - (B) state that the taxing entity will meet on a certain day, time, and place fixed in the advertisement, which shall be seven or more days after the day the first advertisement is published, for the purpose of hearing comments regarding any proposed increase and to explain the reasons for the proposed increase.
 - (ii) The advertisement described in Subsection (6)(a)(ii) shall:
 - (A) be published two weeks before a taxing entity conducts a public hearing described in Subsection (3)(a)(v) or (4)(b); and
 - (B) state that the taxing entity will meet on a certain day, time, and place fixed in the advertisement, which shall be seven or more days after the day the first advertisement is published, for the purpose of hearing comments regarding any proposed increase and to explain the reasons for the proposed increase.

- (f) If a fiscal year taxing entity's public hearing information is published by the county auditor in accordance with Section 59-2-919.2, the fiscal year taxing entity is not subject to the requirement to run the advertisement twice, as required by Subsection (6)(e)(i), but shall run the advertisement once during the week before the fiscal year taxing entity conducts a public hearing at which the taxing entity's annual budget is discussed.
- (g) For purposes of Subsection (3)(a)(iii) or (4)(a), the form and content of an advertisement shall be substantially as follows:

"NOTICE OF PROPOSED TAX INCREASE
(NAME OF TAXING ENTITY)

The (name of the taxing entity) is proposing to increase its property tax revenue.

- The (name of the taxing entity) tax on a (insert the average value of a residence in the taxing entity rounded to the nearest thousand dollars) residence would increase from \$_____ to \$_____, which is \$_____ per year.
- The (name of the taxing entity) tax on a (insert the value of a business having the same value as the average value of a residence in the taxing entity) business would increase from \$_____ to \$_____, which is \$_____ per year.
- If the proposed budget is approved, (name of the taxing entity) would increase its property tax budgeted revenue by ____% above last year's property tax budgeted revenue excluding new growth.

All concerned citizens are invited to a public hearing on the tax increase.

PUBLIC HEARING

Date/Time: (date) (time)

Location: (name of meeting place and address of meeting place)

To obtain more information regarding the tax increase, citizens may contact the (name of the taxing entity) at (phone number of taxing entity)."

(7) The commission:

- (a) shall adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, governing the joint use of one advertisement described in Subsection (6) by two or more taxing entities; and
- (b) subject to Section 45-1-101, may authorize:
- (i) the use of a weekly newspaper:
 - (A) in a county having both daily and weekly newspapers if the weekly newspaper would provide equal or greater notice to the taxpayer; and
 - (B) if the county petitions the commission for the use of the weekly newspaper; or
 - (ii) the use by a taxing entity of a commission approved direct notice to each taxpayer if:
 - (A) the cost of the advertisement would cause undue hardship;
 - (B) the direct notice is different and separate from that provided for in Section 59-2-919.1; and
 - (C) the taxing entity petitions the commission for the use of a commission approved direct notice.

(8)

(a)

(i)

- (A) A fiscal year taxing entity shall, on or before March 1, notify the county legislative body in which the fiscal year taxing entity is located of the date, time, and place of the first public hearing at which the fiscal year taxing entity's annual budget will be discussed.
- (B) A county that receives notice from a fiscal year taxing entity under Subsection (8)(a)(i)(A) shall include on the notice required by Section 59-2-919.1 the date, time, and place of the public hearing described in Subsection (8)(a)(i)(A).

- (ii) A calendar year taxing entity shall, on or before October 1 of the current calendar year, notify the county legislative body in which the calendar year taxing entity is located of the date, time, and place of the first public hearing at which the calendar year taxing entity's annual budget will be discussed.
- (b)
 - (i) A public hearing described in Subsection (3)(a)(v) or (4)(b) shall be open to the public.
 - (ii) The governing body of a taxing entity conducting a public hearing described in Subsection (3)(a)(v) or (4)(b) shall provide an interested party desiring to be heard an opportunity to present oral testimony within reasonable time limits.
- (c)
 - (i) Except as provided in Subsection (8)(c)(ii), a taxing entity may not schedule a public hearing described in Subsection (3)(a)(v) or (4)(b) at the same time as the public hearing of another overlapping taxing entity in the same county.
 - (ii) The taxing entities in which the power to set tax levies is vested in the same governing board or authority may consolidate the public hearings described in Subsection (3)(a)(v) or (4)(b) into one public hearing.
- (d) A county legislative body shall resolve any conflict in public hearing dates and times after consultation with each affected taxing entity.
- (e) A taxing entity shall hold a public hearing described in Subsection (3)(a)(v) or (4)(b) beginning at or after 6 p.m.
- (9)
 - (a) If a taxing entity does not make a final decision on budgeting additional ad valorem tax revenue at a public hearing described in Subsection (3)(a)(v) or (4)(b), the taxing entity shall announce at that public hearing the scheduled time and place of the next public meeting at which the taxing entity will consider budgeting the additional ad valorem tax revenue.
 - (b) A calendar year taxing entity may not adopt a final budget that budgets an amount of additional ad valorem tax revenue that exceeds the largest amount of additional ad valorem tax revenue stated at a public meeting under Subsection (3)(a)(i).
 - (c) A public hearing on levying a tax rate that exceeds a fiscal year taxing entity's certified tax rate may coincide with a public hearing on the fiscal year taxing entity's proposed annual budget.